

REMARKS**Status of Claims**

Claims 1, 12, 21-34, 37-42, 44-48, 50-55, 58-65 and 67-72 were currently pending. Claims 24-30 have been cancelled without prejudice or disclaimer as directed to a non-elected invention. Claim 1 has been amended to remove the term “first” in referring to the bacterial leader sequence, to insert percent identity phrases in (a) and (c), and to amend (b) to a peptidyl fragment that binds to an antibody that specifically binds to an amino acid sequence set forth in SEQ ID NO:2. The remaining claims have not been further amended. After entry of the amendment, claims 1, 12, 21-23, 31-34, 37-42, 44-48, 50-55, 58-65 and 67-72 will be pending.

Support for the amendments to claim 1 can be found, *inter alia*, at paragraphs [0038], [0044], and [0047], and original claim 10. No new matter is added by the amendments.

The claims were not rejected over the prior art.

Entry of the amendment and reconsideration in view of the following comments is respectfully requested. With respect to all amendments, Applicants have not dedicated or abandoned any unclaimed subject matter and moreover have not acquiesced to any rejections and/or objections made by the Patent Office. Applicants expressly reserve the right to pursue prosecution of any presently excluded subject matter or claim embodiments in one or more future continuation and/or divisional application(s).

Sequence Rules Compliance

Due to an error found in the sequence listing previously submitted in the paper of January 11, 2007, Applicant submits herewith a substitute sequence listing in ASCII .txt format via EFS-Web in compliance with 37 C.F.R. §1.821(c) and §1.825(a) and (b). Through an inadvertent error, one additional histidine was inserted, thus resulting in a total of seven rather than the correct total of six histidines at the C-terminus of SEQ ID NO:4, as shown at page 13 paragraph [0050] of

the specification as filed. SEQ ID NO: 4 as submitted in the substitute sequence listing filed herewith is thus fully supported by the instant specification and does not constitute new matter. Accordingly, entry of the substitute sequence listing into the above-captioned application and withdrawal of the objection is respectfully requested.

Claim Objections

Claim 1, 12, 21-23, 31-34, 37-42, 44-48, 50-55, 58-65, 67-72 were objected to since claim 1 recites "a first peptide fragment comprising a first bacterial leader sequence comprising..." The Examiner found this confusing and suggested the term "first" be deleted when referring to the bacterial leader sequence. Accordingly, Applicants have made this amendment. In view of the above, Applicant respectfully requests that the objection be withdrawn.

Rejection Under 35 U.S.C. § 112, Second Paragraph

Claim 23 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner noted that claim 23 is drawn to a chimeric protein which comprises the amino acid sequence set forth in SEQ ID NO: 4, and also lists a sequence in parenthesis, however, this sequence is not the same as SEQ ID NO: 4 listed in applicants previously submitted sequence listing. The Examiner stated on page 4 of the Office Action that the sequence of SEQ ID NO: 4 has six terminal histidine residues, while the sequence listed in claim 23 has seven terminal histidine residues.

Applicants note that while there was a discrepancy between SEQ ID NO:4 as previously submitted and the sequence listed in claim 23, the discrepancy is different than that noted by the Examiner. There are **six** terminal histidine residues in SEQ ID NO:4, as shown at page 13, paragraph [0050] of the specification as originally filed and in claim 23. There were **seven** terminal histidine residues in SEQ ID NO: 4, as shown in the sequence listing filed with the paper of January 11, 2007. The number of histidine residues in SEQ ID NO:4 has been corrected to six in the

substitute sequence listing submitted herewith. Thus, claim 23 is consistent with the current sequence listing. Accordingly, it is believed this basis for rejection may be withdrawn.

CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing **Docket No. 466992001100**. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: August 12, 2008

Respectfully submitted,

By: /Elizabeth Cary Miller/
Elizabeth Cary Miller
Registration No.: 54,708
MORRISON & FOERSTER LLP
12531 High Bluff Drive, Suite 100
San Diego, California 92130-2040
(858) 314-7717